



DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Bonneville Power Administration

[Docket EF21-3-000]
No.

Order Approving Rates on An Interim Basis
And Providing Opportunity for Additional Comments

1. In this order, we approve Bonneville Power Administration's (Bonneville) proposed fiscal years 2022–2023 wholesale power and transmission rates on an interim basis, pending our further review. We also provide an additional period of time for the parties to file comments.

I. Background

2. On July 30, 2021, as supplemented on August 2, 2021, Bonneville filed a request for interim and final approval of its proposed wholesale power¹ and transmission rates² in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act)³ and Subpart B of Part 300 of the Commission's regulations.⁴ Bonneville projects that the filed rates will produce average annual power revenues of \$2.774 billion and average annual transmission revenues of \$1.151 billion. Bonneville asserts that this level of annual revenues is sufficient to recover its costs for the 2022–2023 rate approval period, while providing cash flow to assure at least a 95%

¹ The proposed wholesale power rates for which Bonneville seeks approval for the fiscal years 2022–2023, which is the period October 1, 2021, through September 30, 2023, are: Priority Firm Power Rate (PF-22); New Resource Firm Power Rate (NR-22); Industrial Firm Power Rate (IP-22); Firm Power and Surplus Products and Services Rate (FPS-22). Bonneville also seeks approval of related General Rates Schedule Provisions for the same period.

² The proposed transmission and ancillary services rates (referred to collectively as transmission rates) for which Bonneville seeks approval for the period October 1, 2021, through September 30, 2023, are: Formula Power Transmission Rate (FPT-22.1); Formula Power Transmission Rate (FPT-22.3); Network Integration Rate (NT-22); Point-to-Point Rate (PTP-22); Southern Intertie Rate (IS-22); Montana Intertie Rate (IM-22); Use-of-Facilities Transmission Rate (UFT-22); Advance Funding Rate (AF-22); Townsend-Garrison Transmission Rate (TGT-22); Regional Compliance Enforcement and Regional Coordinator Rates (RC-22); Oversupply Rate (OS-22); Eastern Intertie Rate (IE-22); and Ancillary and Control Area Services Rates (ACS-22). Bonneville also seeks approval of related General Rates Schedule Provisions for the same period.

³ 16 U.S.C. § 839e(i).

⁴ 18 CFR §§ 300.10–300.14 (2020).

probability of making all payments to the United States Treasury in full and on time for each year of the 2022–2023 rate approval period.

3. On August 12, 2021, Bonneville submitted an erratum to its July 30 Filing to correct certain errors in the final documents for the power and transmission rates from the BP-22 rate proceeding (August 12 Erratum). Bonneville asserts that its corrections do not affect its cost recovery under the 2022–2023 rate approval period or the conclusions in its repayment studies. For power rates, Bonneville states that it corrected an error in a summary table in the power rates study. For transmission rates, Bonneville states that it corrected a forecast error that affected the allocation of costs among certain ancillary and control area services rates. Bonneville acknowledges that, although correcting the error has resulted in a change to certain ancillary and control area services rates in its filing, the change has no material impact on the transmission revenue forecast. Bonneville also states that this change in projected revenues has no material impact on Bonneville’s recovery of costs during the 2022–2023 rate approval period or on the risk-adjusted expected value of transmission reserves for risk at the end of fiscal years 2022 or 2023.

4. On August 26, 2021, Bonneville submitted an additional erratum (August 26 Erratum) to its July 30 Filing to correct certain errors to loads submitted by Portland General Electric (Portland General) that were used to calculate Portland General’s allocation of benefits under the Residential Exchange Program (REP). According to Bonneville, Portland General informed Bonneville on August 12, 2021, that the exchange loads it submitted for calendar year 2020 contained erroneous data. Bonneville reports that the error roughly doubled Portland General’s exchange load, resulting in a significant increase in Portland General’s REP benefits and a concomitant reduction to other investor-owned utility REP participant benefits and the consumer-owned utility REP participant’s benefits. The August 26 Erratum revised power rate schedules, a study, and study documentation to correct those errors.

II. Notice of Filing

5. Notices of Bonneville’s July 30, 2021 application and August 2, 2021 supplement were published in the *Federal Register*, 86 Fed. Reg. 43,651 (Aug. 10, 2021); 86 Fed. Reg. 48,132 (Aug. 27, 2021). Protests and motions to intervene were due on or before August 30, 2021, and September 1, 2021, respectively. Timely motions to intervene were filed by Pacific Northwest Generating Cooperative, Avangrid Renewables, LLC, Northwest Requirements Utilities, Public Power Council, Powerex Corp., M-S-R Public Power Agency, and Idaho Conservation League, Great Old Broads for Wilderness, and Idaho Rivers United (collectively, Environmental Parties). Environmental Parties filed a protest opposing the confirmation and approval of Bonneville’s proposed power and transmission rates for the 2022–2023 rate period. On September 7, 2021, Bonneville filed a request for leave to answer and an answer to Environmental Parties’ protest.

6. Environmental Parties assert that Bonneville has a statutory obligation to protect, mitigate, and enhance fish and wildlife affected by the federal hydropower system,⁵ and

⁵ 16 U.S.C. § 839b(h)(11)(A)(i).

that Bonneville violated its statutory obligation by underfunding or failing to fund much-needed fish mitigation and enhancement projects.⁶ Further, Environmental Parties assert that Bonneville violated the Northwest Power Act and the Administrative Procedure Act by failing to demonstrate “equitable treatment” for fish and wildlife in its final rate determination.⁷ Finally, Environmental Parties aver that Bonneville is obligated to comply with the Administrative Procedure Act’s requirement of reasoned decision-making⁸ and that by failing to consider important aspects of the issues before it—namely, Environmental Parties’ previous comments during Bonneville’s environmental review—Bonneville disregarded this obligation.

7. In response, Bonneville asserts that the protesters’ arguments fall outside the Commission’s limited jurisdiction over Bonneville’s power and transmission rates established by section 7(a)(2) of the Northwest Power Act.⁹ Bonneville states that Bonneville’s compliance with its environmental review and fish and wildlife protection obligations are outside the scope of section 7(a)(2) and thus are not within the scope of the Commission’s review.¹⁰ Bonneville argues that, even though it complied with section 4(h)(11)(A) of the Administrative Procedure Act, the Commission’s scope of review is limited to section 7(a)(2) of the Northwest Power Act, which does not extend to Bonneville’s obligations under the Administrative Procedure Act.¹¹

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 CFR § 385.214 (2020), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Standard of Review

9. Under the Northwest Power Act, the Commission’s review of Bonneville’s regional power and transmission rates is limited to determining whether Bonneville’s

⁶ Env’tl. Parties August 27 Protest at 1.

⁷ *Id.* at 2.

⁸ *Id.* at 11 (citing *Golden Nw. Aluminum, Inc. v. Bonneville Power Admin.*, 501 F.3d 1037, 1045, 1051 (9th Cir. 2007)).

⁹ Bonneville September 7 Answer at 3 (citing 16 U.S.C. § 839e(a)(2)).

¹⁰ *Id.* at 4 (citing *U.S. Dep’t of Energy – Bonneville Power Admin.*, 32 FERC ¶ 61,014 (1985)).

¹¹ *Id.* at 5–6.

proposed rates meet the three specific requirements of section 7(a)(2) of the Northwest Power Act:¹²

(A) they must be sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting Bonneville's other costs;

(B) they must be based upon Bonneville's total system costs; and

(C) insofar as transmission rates are concerned, they must equitably allocate the costs of the Federal transmission system between Federal and non-Federal power.

10. Commission review of Bonneville's non-regional, non-firm rates also is limited. Review is restricted to determining whether such rates meet the requirements of section 7(k) of the Northwest Power Act,¹³ which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Taken together, those statutes require that Bonneville's non-regional, non-firm rates:

(A) recover the cost of generation and transmission of such electric energy, including the amortization of investments in the power projects within a reasonable period;

(B) encourage the most widespread use of Bonneville power; and

(C) provide the lowest possible rates to consumers consistent with sound business principles.

11. Unlike the Commission's statutory authority under the Federal Power Act, the Commission's authority under sections 7(a) and 7(k) of the Northwest Power Act does not include the power to modify the rates. The responsibility for developing rates in the first instance is vested with Bonneville's Administrator. The rates are then submitted to the Commission for approval or disapproval. In this regard, the Commission's role can be viewed as an appellate one: to affirm or remand the rates submitted to it for review.¹⁴

12. Moreover, review at this interim stage is further limited. In view of the volume and complexity of a Bonneville rate application, such as the one now before the Commission in this filing, and the limited period in advance of the requested effective

¹² 16 U.S.C. § 839e(a)(2). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

¹³ *Id.* § 839e(k).

¹⁴ See, e.g., *U.S. Dept. of Energy – Bonneville Power Admin.*, 67 FERC ¶ 61,351, at 62,216–17 (1994); *Aluminum Co. of Am. v. Bonneville Power Admin.*, 903 F.2d 585, 592–93 (9th Cir. 1989).

date in which to review the application,¹⁵ the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation. Thus, the proposed rates, if not patently deficient, generally are approved on an interim basis and the parties are afforded an additional opportunity in which to raise issues with regard to Bonneville's filing.¹⁶

13. The Commission declines at this time to grant final confirmation and approval of Bonneville's proposed wholesale power and transmission rates. The Commission's preliminary review nevertheless indicates that Bonneville's wholesale power and transmission rates filing appears to meet the statutory standards and the minimum threshold filing requirements of Part 300 of the Commission's regulations.¹⁷ Moreover, the Commission's preliminary review of Bonneville's submittal indicates that it does not contain any patent deficiencies. The proposed rates therefore will be approved on an interim basis pending full review for final approval. We note, as well, that no one will be harmed by this decision because interim approval allows Bonneville's rates to go into effect subject to refund with interest; the Commission may order refunds with interest if the Commission later determines in its final decision not to approve the rates.¹⁸

14. In addition, we will provide an additional period of time for parties to file comments and reply comments on issues related to final confirmation and approval of Bonneville's proposed rates. This will ensure that the record in this proceeding is complete and fully developed.

The Commission orders:

(A) Interim approval of Bonneville's proposed wholesale power and transmission rates is hereby granted, to become effective on October 1, 2021, through September 30, 2023, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations,¹⁹ pending final action and either their approval or disapproval.

(B) Within 30 days of the date of this order, parties who wish to do so may file additional comments regarding final confirmation and approval of Bonneville's proposed rates. Parties who wish to do so may file reply comments within 20 days thereafter.

(C) The Secretary shall promptly publish this order in the *Federal Register*.

¹⁵ See 18 CFR § 300.10(a)(3)(ii).

¹⁶ See, e.g., *U.S. Dept. of Energy – Bonneville Power Admin.*, 168 FERC ¶ 62,178, at 4 (2019); *U.S. Dept. of Energy – Bonneville Power Admin.*, 160 FERC ¶ 61,113, at P 6 (2017).

¹⁷ See, e.g., *U.S. Dept. of Energy – Bonneville Power Admin.*, 168 FERC ¶ 62,178 at P 4; *U.S. Dept. of Energy – Bonneville Power Admin.*, 160 FERC ¶ 61,113 at P 13.

¹⁸ 18 CFR § 300.20(c) (2020).

¹⁹ *Id.*

By the Commission.

ISSUED: September 30, 2021.

Kimberly D. Bose,
Secretary.

[FR Doc. 2021-21814 Filed: 10/5/2021 8:45 am; Publication Date: 10/6/2021]